IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 2046 of 2007()

(CRIME NO. 72/2007 of VAZHAKKALA POLICE STATION)

PETITIONER:

SAMEERATH C.K., W/O. IBRAHIM,
AGED 24 YEARS, CHATHANTHUDY KOOVAPRA HOUSE,
VETTUPARA, P.O. CHEEKKODU, MALAPPURAM.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

---

1. THE SUPERINTENDENT OF POLICE,
MALAPPURAM DISTRICT.

2. THE SUB INSPECTOR OF POLICE,
VAZHAKKAD, MALAPPURAM.

3. SAJIDA, W/O. C.K.ABDUL SALAM,
CHATHANTHUDY KOOVAPRA HOUSE, VETTUPARA,
P.O. CHEEKKODU, MALAPPURAM.

BY ADV. SRI.M.N.MANMADAN
SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

Crl.M.C. No.2046 Of 2007

= = = = = = = = = = = = = =

Dated this the 28th day of June, 2007

ORDER

The petitioner is the 4th accused in a prosecution, inter alia, under Section 498A IPC. She is the sister-in-law of the 3rd accused. Proceedings have been initiated against the petitioner on the basis of the complaint of her sister in law, the 3rd respondent herein. The petitioner has now secured employment at the Karippur Airport, Kozhikode. Pendency of the proceedings against her is causing difficulties, as she cannot obtain the requisite clearance certificate from the Police for such employment.

2. In these circumstances, she had contacted the 3rd respondent and the parties have settled their disputes. The 3rd respondent has compounded the offence. In these circumstances, it is prayed that the composition may be accepted and premature termination of the proceedings against the petitioner may be permitted. Investigation is complete. It is submitted that final report has been filed but cognizance has not been taken and number is not assigned to such case after cognizance.

3. In view of the urgency of the matter, it is prayed that the case against the petitioner may be quashed and orders may be issued to that effect so that the petitioner can take advantage of the order and proceed with the necessary arrangements for obtaining the clearance certificate for employment in Karippur Airport.

4. The third respondent has entered appearance . The counsel affirms that there is settlement between the parties and the 3rd respondent has compounded the offence. But there is no prayer by the co-accused in this Crl.M.C, whatsoever. Therefore it is not necessary to advert to the facts of the proceedings against the co-accused in this order. I am satisfied from the submissions made at the Bar and the statement filed by the 3rd respondent that the parties have settled their disputes and the 3rd respondent has compounded the offence alleged against the petitioner. The counsel for the 3rd respondent who has filed vakalath and entered appearance today confirms the settlement and vouches for the signature of the 3rd respondent in the joint statement for composition,produced as Annexure A4.

5. However, the offence under Section 498A I.P.C is not compoundable. The learned counsel, in these circumstances, rightly relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC

1386]. That decision is the authority for the proposition that notwithstanding the provisions of Section 320 Cr.P.C, the powers under Section 482 Cr.P.C can be invoked in a case where the interests of justice demands such invocation.

6. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked to bring to premature termination the proceedings against the petitioner initiated by the third respondent.

7. In the result, this Criminal Miscellaneous Case is allowed. All further proceedings in pursuance of Crime No.72/2007 of Vazhakkala police against the petitioner herein/ 4th accused shall stand quashed. The co-accused along with the 3rd respondent can make appropriate further application for quashing the proceedings against him. In the light of this order quashing proceedings, the petitioner can approach the Sub Inspector of Police for issue of necessary clearance certificate for securing her employment.

Issue copy of this order to the counsel for the petitioner forthwith.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE